

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO: 09-20387

v.

DISTRICT JUDGE THOMAS L. LUDINGTON
MAGISTRATE JUDGE CHARLES E. BINDER

ANTONIO HERNANDEZ, Jr.,

Defendant.

**MAGISTRATE JUDGE'S REPORT, FINDINGS AND
RECOMMENDATION CONCERNING PLEA OF GUILTY**

I. REPORT AND FINDINGS

On October 26, 2009, this case was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B) and 636(b)(3) for purposes of receiving, on consent of the parties, Defendant's offer of a plea of guilty. Defendant, along with counsel, appeared before me on November 3, 2009. In open court, I examined Defendant under oath, confirmed Defendant's consent, and then advised and questioned Defendant regarding each of the inquiries prescribed by Rule 11(b) of the Federal Rules of Criminal Procedure.

Based upon Defendant's answers and demeanor, **I HEREBY FIND:** (1) that Defendant is competent to tender a plea; (2) that Defendant's plea was knowingly, intelligently made; and (3) that the offense(s) to which Defendant pleaded guilty is(are) supported by an independent basis in fact containing each of the essential elements of the offense(s). Therefore, I have ordered the preparation of a presentence investigation report.

II. RECOMMENDATION

For the reasons set forth above, **IT IS RECOMMENDED** that, subject to the Court's consideration of the plea agreement pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure, Defendant be adjudged guilty and sentence be imposed.

III. REVIEW

The parties to this action may object to and seek review of this Report and Recommendation within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed.2d 435 (1985); *Frontier Ins. Co. v. Blaty*, 454 F.3d 590, 596 (6th Cir. 2006); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). The parties are advised that making some objections, but failing to raise others, will not preserve all the objections a party may have to this Report and Recommendation. *McClanahan v. Comm'r of Social Security*, 474 F.3d 830, 837 (6th Cir. 2006); *Frontier Ins. Co.*, 454 F.3d at 596-97. Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

s/ Charles E Binder

CHARLES E. BINDER

United States Magistrate Judge

Dated: November 3, 2009

CERTIFICATION

I hereby certify that this Report and Recommendation was electronically filed this date, electronically served on Roy Kranz and Jeffrey Collins, and served on District Judge Ludington in the traditional manner.

Date: November 3, 2009

By s/Jean L. Broucek
Case Manager to Magistrate Judge Binder